



Virginia
Regulatory
Town Hall

Exempt Action Final Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services (12 VAC 30)
VAC Chapter Number:	Chapter 80
Regulation Title:	Methods and Standards Used to Establish Payment Rates-Other Types of Services: Services which are reimbursed on a cost basis; Reimbursement for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs)
Action Title:	Reimbursement Formula for FHQCs and RHCs
Date:	June 5, 2002; Effective 8/1/2002

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.

In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and therefore are not subject to publication. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

Summary

Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory change is being made to conform to federal requirements pursuant to Section 702 of the Benefits Improvement and Protection Act (BIPA) of 2000, and therefore is exempt for the APA process pursuant to the *Code of Virginia* § 2.2-4006(A)(4)(c) thereof. BIPA 2000 required that Medicaid programs reimburse Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) on a prospective payment system (PPS) or at the option of the state, under an alternative payment methodology. Since the Commonwealth previously reimbursed these providers at 100% of their reasonable costs, DMAS is retaining that methodology as permitted under the BIPA 2000 alternative methodology provision.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

I hereby approve the foregoing Regulatory Review Summary with the attached amended State Plan pages and adopt the action stated therein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (Code 2.2-4006), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

June 5/2002

/s/ Patrick W. Finnerty

Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.

If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.

The section of the State Plan for Medical Assistance that is affected by this action is Methods and Standards for Establishing Payment Rates-Other Types of Care, Services reimbursed on a cost basis, reimbursement formula for Federally Qualified Health Centers (FQHCs) and rural health clinics (Attachment 4.19-B (12 VAC 30-80-20 and 30-80-25)).

This regulatory action affects the reimbursement methodology for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). FQHCs and RHCs render primary care services such as physician care, well-child screenings (performed by physician assistants, nurse practitioners, clinical nurse midwives and nurse practitioner specialists), clinical psychology, social work, and basic lab and x-ray services. Dental services, although not federally required, are offered by some FQHCs/RHCs through staff doctors of dental medicine or surgery.

FQHCs/RHCs tend to operate in medically underserved, generally rural areas. Geographic boundaries for RHCs have remained unchanged since their establishment during the 1970s. RHCs are for-profit clinics and designated as such via a Medicare (Title XVIII) process (as a result of being rurally located and employing physician assistants and nurse practitioners) and Medicaid (Title XIX) automatically accepts it. FQHCs are so designated if they receive funding under Titles 329, 330, and 340 of the *Public Health Services Act (PHS)*. FQHCs are non-profit facilities whose *PHS* grants are annually adjusted to compensate for Medicare/Medicaid collections and private pay fees collected.

Previously, Medicaid reimbursed FQHCs and RHCs on a reasonable cost basis for 100 percent of their costs. Section 702 of BIPA repealed the reasonable cost-based reimbursement requirements for FQHCs/RHCs and required Medicaid to pay these two provider groups on a prospective payment system (PPS), or, at the option of the State and the applicable provider, on an alternative payment methodology, provided that the FQHCs/RHCs (as applicable) would receive at least as much as such provider would be entitled to receive under the PPS methodology.

With the prior approval of the Centers for Medicare and Medicaid Services, DMAS is proposing to adopt its prior reimbursement methodology (reimbursing FQHCs and RHCs for covered services on a reasonable cost basis, using Medicare principles of reimbursement) as the alternative payment methodology allowable under section 702 of BIPA. However, providers have the option of (i) continuing to receive payment on a cost related basis or (ii) selecting the Medicaid PPS.

Approximately 98 enrolled (as of 6-30-00) FQHCs and RHCs are affected by this change. DMAS reimbursed FQHCs and RHCs approximately \$9 million in SFY 2000, which covers about 34,000 fee-for-service Medicaid recipients per year.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This final exempt regulatory action will not have any direct impact on the institution of the family and the stability of the family. It will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; it will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, or one's children and/or elderly parents; it will not strengthen or erode the marital commitment; it will not increase or decrease disposable family income.